

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Raquel Velasquez	Team: Squad #12	CCRB Case #: 201708598	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/17/2017 12:05 AM	Location of Incident: In front of 1139 Clay Avenue; En route to the 44th Precinct stationhouse	Precinct: 44	18 Mo. SOL 4/17/2019	EO SOL 4/17/2019	
Date/Time CV Reported Wed, 10/18/2017 12:52 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 10/18/2017 12:52 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Cabrera	21253	959525	044 PCT
2. SGT Christophe Crain	01266	933719	044 PCT
3. POM Luke Brennan	16890	957401	044 PCT
4. An officer			044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Robert Cabrera	Abuse: In front of 1139 Clay Avenue, Police Officer Robert Cabrera stopped § 87(2)(b)	
B.POM Luke Brennan	Abuse: In front of 1139 Clay Avenue, Police Officer Luke Brennan stopped § 87(2)(b)	
C.SGT Christophe Crain	Abuse: In front of 1139 Clay Avenue, Sergeant Christopher Crain stopped § 87(2)(b)	
D.POM Luke Brennan	Force: In front of 1139 Clay Avenue, Police Officer Luke Brennan used physical force against § 87(2)(b)	
E.SGT Christophe Crain	Force: In front of 1139 Clay Avenue, Sergeant Christopher Crain used physical force against § 87(2)(b)	
F.POM Robert Cabrera	Force: In front of 1139 Clay Avenue, Police Officer Robert Cabrera used physical force against § 87(2)(b)	
G. An officer	Force: In front of 1139 Clay Avenue, an officer used a chokehold against § 87(2)(b)	
H. An officer	Force: In front of 1139 Clay Avenue, an officer restricted § 87(2)(b)'s breathing.	
I. An officer	Abuse: In front of 1139 Clay Avenue, an officer damaged § 87(2)(b)'s property.	
J.SGT Christophe Crain	Abuse: In front of 1139 Clay Avenue, Sergeant Christopher Crain strip-searched § 87(2)(b)	
K.SGT Christophe Crain	Force: En route to the 44th Precinct stationhouse, Sergeant Christopher Crain used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB in person on October 18, 2017.

On October 17, 2017, at approximately 12:05 a.m., Police Officer Robert Cabrera Police Officer Luke Brennan, and Sergeant Christopher Crain stopped § 87(2)(b) in front of 1139 Clay Avenue in the Bronx (**Allegation A: Abuse of Authority- Stop, § 87(2)(g)** **Allegation B: Abuse of Authority- Stop, § 87(2)(g)** **Allegation C: Abuse of Authority- Stop, § 87(2)(g)** PO Brennan, Sgt. Crain, and PO Cabrera allegedly punched § 87(2)(b) in the face, head, back, chest, and stomach approximately 150 times. The officers pulled § 87(2)(b) in different directions and placed their weight on § 87(2)(b)'s body, causing him to fall on the ground. The officers then placed their feet on § 87(2)(b)'s legs, and continued to punch and/or kick him in the back and the back of the neck (**Allegation D: Force- Physical Force, § 87(2)(g)** **Allegation E: Force- Physical Force, § 87(2)(g)** and **Allegation F: Force- Physical Force, § 87(2)(g)** The officers, § 87(2)(b) did not know which one specifically, placed a knee on his neck (**Allegation G: Force- Chokehold, § 87(2)(g)**) and restricted his breathing (**Allegation H: Force- Restricted Breathing, § 87(2)(g)**). While being handcuffed, PO Cabrera removed a watch from § 87(2)(b)'s wrist. § 87(2)(b) later noticed that he watch was scratched, but he did not see who or how the damage was caused (**Allegation I: Abuse of Authority- Property Damage, § 87(2)(g)**). Sgt. Crain searched § 87(2)(b) and, while doing so, he unbuttoned and unzipped § 87(2)(b)'s jeans, exposing his underwear (**Allegation J: Abuse of Authority- Strip-Search, § 87(2)(g)** En route to the 44th Precinct stationhouse, Sgt. Crain slapped § 87(2)(b)'s left bicep and squeezed it until they arrived at the stationhouse (**Allegation K: Force- Physical Force, § 87(2)(g)**

§ 87(2)(b) was charged with § 87(2)(b) (Board Review 01).

§ 87(2)(b) provided a cellphone recording that captures the beginning of his interaction with the officers; the recording has audio (**Board Review 02**). Video evidence was also obtained from surveillance cameras outside of 1139 Clay Avenue. These recordings do not have audio (**Board Review 03, 04, 05, and 06**).

Findings and Recommendations

Allegation A: Abuse of Authority- In front of 1139 Clay Avenue, Police Officer Robert Cabrera stopped § 87(2)(b)

Allegation B: Abuse of Authority- In front of 1139 Clay Avenue, Police Officer Luke Brennan stopped § 87(2)(b)

Allegation C: Abuse of Authority- In front of 1139 Clay Avenue, Sergeant Christopher Crain stopped § 87(2)(b)

§ 87(2)(b) stated that he had gotten off the 4 train at East 167th Street and River Avenue.

§ 87(2)(b) was alone and he stopped at a smoke shop located on East 167th Street and Grand Concourse. § 87(2)(b) purchased two Dutch Masters (cigars). He did not make any other purchases. He left approximately one minute later and he continued walking down East 167th Street, to his home at § 87(2)(b). He did not make other stops or interact with anyone.

§ 87(2)(b) noticed officers inside a black car staring at him and he began recording using his cellphone. § 87(2)(b) turned right onto Clay Avenue and continued walking. The black car also

turned on Clay Avenue. PO Brennan exited the car, followed § 87(2)(b) and said, “Police Department. Hey, dude.” § 87(2)(b) continued walking and asked why he was being followed. PO Brennan responded, “Slow down, dude. Where are you going?” but provided no explanation. § 87(2)(b) was arrested and charged with § 87(2)(b). § 87(2)(b) had a small bag of marijuana in his left front jean pocket. § 87(2)(b) denied having any other narcotics (**Board Review 07**).

The video evidence (§ 87(2)(b)'s cellphone video recording) shows PO Brennan and Sgt. Crain walking after § 87(2)(b) for approximately twenty seconds and telling him to stop and place his hands behind his back (**Board Review 02** and **Board Review 06**).



2018-04-23_12-33-19.mp4

PO Cabrera stated that he, PO Brennan, and Sgt. Crain were conducting anti-crime patrol. PO Cabrera drove the unmarked car; PO Brennan was seated in the front passenger seat; and Sgt. Crain was seated in the rear. PO Cabrera drove eastbound on East 167th Street at approximately ten miles per hour. The area was well lit. § 87(2)(b) walked alone on the sidewalk alongside East 167th Street. § 87(2)(b) turned to look at the unmarked car; however, none of the officers spoke to § 87(2)(b) nor signaled him to stop. § 87(2)(b) was approximately ten feet away when PO Cabrera saw § 87(2)(b) drop a clear Ziploc bag (approximately two inches wide and two inches long), which contained a white substance that he suspected was crack cocaine. § 87(2)(b) was not suspected of having committed any crimes prior to this observation. PO Cabrera told Sgt. Crain and PO Brennan that § 87(2)(b) had dropped something. One of the officers, PO Cabrera did not recall which one, mentioned that he also made the same observation. PO Brennan and Sgt. Crain exited the unmarked car and attempted to stop § 87(2)(b). PO Cabrera remained in the unmarked car. PO Brennan and Sgt. Crain walked after § 87(2)(b) and § 87(2)(b) walked away. PO Cabrera later recovered the bag of crack cocaine where § 87(2)(b) had dropped it (**Board Review 13**).

Eleven zip-lock bags of alleged crack cocaine and one bag of marijuana were vouchered as arrest evidence (**Board Review 15**).

PO Brennan's statement was generally consistent with PO Cabrera's with the following exceptions noted. All of the officers observed § 87(2)(b) exit a building on East 167th Street and Clay Avenue. PO Brennan did not observe § 87(2)(b) throw narcotics. However, upon being alerted of this, PO Brennan followed § 87(2)(b) identified himself as a plainclothes officer, and told him to stop multiple times. § 87(2)(b) continued walking. § 87(2)(b) had a cellphone in his hand and said something along the lines of, “I'm on Facebook live” or that he was recording the incident. He did not recall § 87(2)(b) making any other statement. PO Brennan followed § 87(2)(b) approximately 10 to 20 feet. Sgt. Crain exited the unmarked car and also told § 87(2)(b) to stop. PO Brennan did not recall if § 87(2)(b) responded to Sgt. Crain (**Board Review 11**).

§ 87(2)(g)

Sgt. Crain did not observe § 87(2)(b) throw narcotics. However, based on PO Cabrera's

observation, § 87(2)(b) was considered under arrest for criminal possession of narcotics. PO Cabrera later recovered 8 or 10 bags of crack cocaine (**Board Review 09**).

An officer has the right to stop a person if they have a reasonable suspicion that the person has committed, is committing, or is about to commit a crime, People v. DeBour, 40 N.Y.2d 210 (1976), (**Board Review 20**).

§ 87(2)(g)

Allegation D: Force- In front of 1139 Clay Avenue, Police Officer Luke Brennan used physical force against § 87(2)(b)

Allegation E: Force- In front of 1139 Clay Avenue, Sergeant Christopher Crain used physical force against § 87(2)(b)

Allegation F: Force- In front of 1139 Clay Avenue, Police Officer Robert Cabrera used physical force against § 87(2)(b)

§ 87(2)(b) stated that PO Brennan ran up to him and, as § 87(2)(b) turned around, PO Brennan punched him near the left eyebrow. PO Brennan continued to punch § 87(2)(b) two to three times in the back of the head. Simultaneously, Sgt. Crain approached and also repeatedly punched § 87(2)(b). The officers placed § 87(2)(b) against a wall, but he could not describe how. § 87(2)(b)'s face and chest were against the wall and he remained there as the officers punched him. PO Cabrera approached and also repeatedly punched him. § 87(2)(b) believed he was punched approximately 150 times. He could not specify where each officer punched him, but he felt hits in his back, the back of his head, his chest, and stomach. § 87(2)(b) put his hands up to block his body from being hit and dodged the punches. He did not do anything else. § 87(2)(b) asked why he was being stopped, why they were on top of him, and he told the officers to get off of him. The officers did not say anything. The officers pulled § 87(2)(b) in different directions and placed their weight on § 87(2)(b) causing him to fall to the ground. § 87(2)(b) landed on his chest and face. One of the officers, he did not see which one, placed a foot on § 87(2)(b)'s face. He believed Sgt. Crain placed his feet on top of § 87(2)(b)'s legs. While on the ground, the officers continued to punch and/or kick him in the back and the back of his neck, and all over his body, although he could not specify where because the hits occurred simultaneously. He could not estimate how long he was on the ground but everything happened within three minutes. § 87(2)(b) sustained scratches on his wrists and two marks on his stomach, but he did not seek medical treatment (**Board Review 07**).

§ 87(2)(b)'s arrest photograph does not depict any visible injuries. § 87(2)(b)'s Prisoner Pedigree Card note his physical/mental condition as "appears normal." It notes that medical attention was not requested and that § 87(2)(b) refused medical attention (**Board Review 08**).

The video evidence shows (from the surveillance camera at 1139 Clay Avenue), between 00:23 and 00:27, § 87(2)(b) Sgt. Crain, and PO Brennan on the bottom of the screen and move against

a wall on the left. § 87(2)(b)'s back is against the wall. Sgt. Crain stands § 87(2)(b)'s left and PO Brennan stands § 87(2)(b)'s right. Both Sgt. Crain and PO Brennan appear to have their hands around § 87(2)(b)'s back and the back of his head and the back of his neck. § 87(2)(b)'s arms are unclear but he appears to be moving around. Between 00:26 and 00:29, PO Brennan appears to push § 87(2)(b)'s body down, using his own body. § 87(2)(b)'s body folds forward. However, § 87(2)(b)'s body continues to move, and he appears to lift his body up. Between 00:30 and 00:35, PO Cabrera approaches and strikes towards § 87(2)(b) at least three times, using his right hand. It is unclear where on § 87(2)(b)'s body the strikes made contact. Simultaneously, § 87(2)(b), PO Brennan, and Sgt. Crain continue to move around. Between 00:36 and 0:42, § 87(2)(b) appears to fold his upper body down. PO Brennan crouches down and wraps his arms around § 87(2)(b)'s thighs and leans his upper body against § 87(2)(b)'s left side. § 87(2)(b) moves his body so that his left side is against the wall. PO Cabrera moves towards § 87(2)(b)'s back, leans down and appears to grab one of § 87(2)(b)'s legs. Sgt. Crain is involved in the struggle, but his actions are unclear. The officers and § 87(2)(b) move down the sidewalk and out of the screen (**Board Review 02, Board Review 03, and Board Review 06**).



2018-04-11_14-34-01.mp4

A second camera angle (from the surveillance camera at 1139 Clay Avenue) shows, between 00:06 and 00:15, Sgt. Crain and PO Brennan increase their speed and reach up to § 87(2)(b). Both Sgt. Crain and PO Brennan reach their arms towards § 87(2)(b). § 87(2)(b) ducks down and away from the officers. At 00:07, Sgt. Crain and PO Brennan grab § 87(2)(b) somewhere in the upper body and they move him against the wall. Sgt. Crain and PO Brennan hold § 87(2)(b) with his back against the wall. Between 00:16 and 00:22, PO Cabrera approaches the center of both officers and, using his right arm, strikes towards § 87(2)(b) at least three times. It is unclear where on § 87(2)(b)'s body the strikes make contact with because Sgt. Crain's body obstructs the view. § 87(2)(b) folds his body forward and moves around, and the officers move around with him. Between 00:23 and 00:28, PO Brennan appears to wrap his body around § 87(2)(b) and § 87(2)(b) falls back to the ground. PO Brennan lands on top of § 87(2)(b). PO Cabrera is on the left and Sgt. Crain is on the right. PO Brennan remains lying on top of § 87(2)(b) while § 87(2)(b) moves his body around. Sgt. Crain kneels down near § 87(2)(b)'s lower body. § 87(2)(b) and the officers move around continuously, but their specific actions are unclear. At 00:47, PO Brennan appears to be sitting on top of § 87(2)(b)'s upper body. From 00:48 to 01:17, § 87(2)(b) and the officers continue to move around, but their specific actions are unclear. At 01:03, Sgt. Crain strikes § 87(2)(b) twice, but it is unclear where on § 87(2)(b)'s body the strikes hit. At 01:12, Sgt. Crain knees § 87(2)(b) once somewhere in his lower body. Throughout this time frame, § 87(2)(b) continues to move his body around and PO Brennan remains sitting on top of § 87(2)(b). PO Brennan stands with his legs spread out over § 87(2)(b)'s body. At 01:39, PO Brennan, using his right arm, strikes down twice. It is unclear where on § 87(2)(b)'s body the strikes hit, but it appears to be on his upper body. § 87(2)(b) and the officers continue to move around on the ground. At 02:38, PO Cabrera and PO Brennan stand up. Sgt. Crain remains kneeling down on the ground on § 87(2)(b)'s left. By 03:00, § 87(2)(b) appears to be in handcuffs as his upper body does not move (**Board Review 05 and Board Review 06**).



2018-04-17_16-42-16.mp4

PO Brennan stated that after telling § 87(2)(b) to stop multiple times, he grabbed § 87(2)(b)'s torso and tried to grab his hands. § 87(2)(b) flailed his arms and moved his body. PO Brennan and Sgt. Crain tried to handcuff § 87(2)(b) and they all got to near a wall while tussling. PO Brennan did not believe that he pushed § 87(2)(b) against the wall, and he did not see any officer doing so. § 87(2)(b) stood with his back against the wall. PO Cabrera also approached. The officers tried to handcuff § 87(2)(b) and § 87(2)(b) resisted by flailing his arms and moving his body. The officers and § 87(2)(b) fell to the ground. § 87(2)(b) landed on his back; PO Brennan landed on his chest, on top of § 87(2)(b). PO Brennan believed that he rolled off § 87(2)(b)'s chest and attempted to grab his hands. He believed Sgt. Crain was near § 87(2)(b)'s legs and PO Cabrera was on § 87(2)(b)'s hip/groin region. The officers continued to try to handcuff § 87(2)(b) and § 87(2)(b) flailed his hands and moved his whole body. PO Brennan did not do anything else except attempt to grab § 87(2)(b)'s hands to handcuff him. PO Brennan did not recall seeing PO Cabrera or Sgt. Crain doing anything else except attempting to grab § 87(2)(b)'s hands. PO Brennan believed he got control of one of § 87(2)(b)'s hands and they then turned him over. They were on the ground for approximately 45 seconds before they were able to handcuff § 87(2)(b). PO Brennan believed he handcuffed § 87(2)(b). PO Brennan did not and did not see any officer punch § 87(2)(b) (including in the face, the back of the head, the back, the chest, or stomach); place a foot on § 87(2)(b)'s face, feet, or legs; or kick § 87(2)(b) in the back or the neck. PO Brennan was shown video evidence during his interview. PO Brennan stated that he straddled § 87(2)(b)'s front or side and that he did this to handcuff him. PO Brennan was shown video evidence where he is seen striking § 87(2)(b). The video clip was played twice; however, PO Brennan repeated that he did not see a strike and said that he was not sure whether the action was a strike. The video evidence also did not refresh PO Brennan's memory regarding having struck § 87(2)(b) at all during the incident (**Board Review 11**).

PO Brennan prepared a TRI and noted that § 87(2)(b) wrestled/grappled and pushed/shoved officers, and that hand strikes and a forcible take down were used against § 87(2)(b) in defense of officers, to overcome resistance and aggression, and because he attempted to flee. § 87(2)(b) did not sustain any injuries. Medical aid was offered to and rejected by § 87(2)(b). PO Brennan did not sustain any injuries (**Board Review 12**).

§ 87(2)(g)

§ 87(2)(b) Sgt. Crain and PO Brennan struggled to handcuff § 87(2)(b) for less than a minute. They then picked § 87(2)(b) up by his legs and placed him on the ground. § 87(2)(b) landed on his side and stomach. PO Brennan and Sgt. Crain also fell to the ground. Sgt. Crain could not estimate how long they struggled for until they were able to handcuff § 87(2)(b)'s hands were underneath his body and he kicked and flailed, and yelled that he was going to spit at the officers. The officers repeatedly told § 87(2)(b) to stop resisting and give his hands up. Sgt. Crain was by § 87(2)(b)'s legs and he sat on § 87(2)(b)'s legs to gain control. Sgt. Crain also punched § 87(2)(b)'s legs because § 87(2)(b) kicked and refused to give his hands. Sgt. Crain did not recall how many times he punched § 87(2)(b) but it was probably twice. PO Brennan and PO Cabrera tried to handcuff § 87(2)(b) but he could not specify what each officer did. Sgt. Crain did not

know when or how many times PO Brennan and PO Cabrera punched § 87(2)(b) but both officers punched § 87(2)(b) in the stomach area. Sgt. Crain did not punch § 87(2)(b) in the stomach. Sgt. Crain did not and did not see any officer punch § 87(2)(b) in the face, the back of the head, chest, or back or kick § 87(2)(b) including in the back or neck. Sgt. Crain did not place his foot on § 87(2)(b)'s face and he did not recall seeing any officer doing so (**Board Review 09**).

Sgt. Crain prepared a TRI and noted that § 87(2)(b) wrestled/grappled and pushed/shoved officers, and that hand strikes and a forcible take down were used against § 87(2)(b) in defense of officers, to overcome § 87(2)(b)'s resistance and aggression, and because § 87(2)(b) attempted to flee. § 87(2)(b) did not sustain any injuries. Medical aid was offered to and rejected by § 87(2)(b). PO Cabrera sustained injuries (scrapes on his hands and arms, an injured back, and either a twisted ankle or an injury to the ball of his foot) as a result of this incident. PO Cabrera sought medical treatment and was out sick for a few weeks. Sgt. Crain and PO Brennan did not sustain any injuries (**Board Review 10**).

§ 87(2)(g)
PO Cabrera approached approximately fifteen seconds after the struggle ensued between § 87(2)(b) PO Brennan, and Sgt. Crain. § 87(2)(b) was not placed against a wall. PO Cabrera attempted to reach for § 87(2)(b)'s hands and he gave § 87(2)(b) commands to put hands behind his back. PO Cabrera then punched § 87(2)(b) to get him to loosen his arms, because they had been unable to do so beforehand. PO Cabrera only recalled striking § 87(2)(b)'s arms, in the bicep area. He did not recall how many times he struck § 87(2)(b). He did not recall whether he struck one or both of § 87(2)(b)'s arms. PO Cabrera only used his right hand to strike § 87(2)(b) which he injured. § 87(2)(b) did not react to the punches. The officers flipped § 87(2)(b) to his stomach over within seconds of going to the ground, and § 87(2)(b) flailed his body. PO Cabrera did not punch § 87(2)(b) in the face, the back of the head, the chest, the stomach, or the back. PO Cabrera did not recall seeing any other officer punching § 87(2)(b). PO Cabrera did not and did not see any officer place a foot on § 87(2)(b)'s face, lean on his legs, or kick § 87(2)(b) including in the back or neck. PO Cabrera was shown video evidence which depicts him striking § 87(2)(b). PO Cabrera confirmed those were the punches he referred to and confirmed that he struck § 87(2)(b)'s arms. § 87(2)(b) did not have any injuries and he did not complain of injuries. PO Cabrera sustained scrapes and bruises on his right hand and a sprained left ankle when they fell to the ground. PO Cabrera received medical treatment and was out sick for approximately one month (**Board Review 13**).

PO Cabrera prepared a TRI and noted that § 87(2)(b) wrestled/grappled and pushed/shoved officers, and that hand strikes and a forcible take down were used against § 87(2)(b) in defense of officers and to overcome resistance and aggression. § 87(2)(b) did not sustain any injuries. Medical aid was offered to and reject by § 87(2)(b). PO Cabrera sustained injuries (minor swelling, contusions, and substantial pain) to his right hand and right foot (**Board Review 14**).

§ 87(2)(g)
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§ 87(2)(g) The video does not depict any officer kicking § 87(2)(b) placing a foot on his face, or using hand strikes on his head/face.

Patrol Guide Procedure 221-02 states that an officer may apply no more than the reasonable force necessary to gain control of an arrestee (**Board Review 16**).

§ 87(2)(g)
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§ 87(2)(g)

Allegation G: Force- In front of 1139 Clay Avenue, an officer used a chokehold against

§ 87(2)(b)
Allegation H: Force- In front of 1139 Clay Avenue, an officer restricted § 87(2)(b)'s breathing.

Allegation I: Abuse of Authority- In front of 1139 Clay Avenue, an officer damaged § 87(2)(b)'s property.

§ 87(2)(b) initially stated that PO Brennan leaned a knee on his neck; however, he later clarified that he did not recall where on his body the officers placed their knees or which officers did so, but he had trouble breathing. § 87(2)(b) also stated that PO Cabrera pulled a (gold Michael Kors) watch off of his left wrist. When the watch was returned to § 87(2)(b) he noticed that it had scratches (**Board Review 07**).

The video evidence does not depict the abovementioned allegations.

Sgt. Crain did not recall placing his knee against § 87(2)(b)'s neck and he did not think that any other officer did so. Sgt. Crain did not and did not see any officer place § 87(2)(b) in a chokehold. Sgt. Crain did not recall whether § 87(2)(b) had a watch, and he did not and did not see any officer damage § 87(2)(b)'s watch (**Board Review 09**).

PO Brennan did not and did not see any officer place a knee on § 87(2)(b)'s neck, or use a chokehold on § 87(2)(b). PO Brennan did not recall if § 87(2)(b) had a watch on his wrist. PO Brennan did not and did not see any officer pull a watch from § 87(2)(b)'s wrist. He did not and did not see any officer damage § 87(2)(b)'s watch (**Board Review 11**).

PO Cabrera did not and did not see any officer place a knee on § 87(2)(b)'s neck or use a chokehold on him. PO Cabrera did not recall if § 87(2)(b) had a watch on his wrist. PO Cabrera did not and did not see any officer pull a watch from § 87(2)(b)'s wrist. PO Cabrera did not and did not see any officer damage § 87(2)(b)'s watch (**Board Review 13**).

§ 87(2)(g)
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§ 87(2)(g)

Allegation J: Abuse of Authority- In front of 1139 Clay Avenue, Sergeant Christopher Crain strip-searched § 87(2)(b)

§ 87(2)(b) stated that, after being handcuffed, he was stood up and frisked and searched. PO Brennan and Sgt. Crain removed the items from his pockets. Sgt. Crain then unbuttoned and unzipped § 87(2)(b)'s jeans, and his underwear was exposed (**Board Review 07**).

The video evidence shows officers pick § 87(2)(b) up from the ground. § 87(2)(b) is facing opposite of the camera angle. PO Brennan stands on § 87(2)(b)'s left side and PO Cabrera stands in front of § 87(2)(b). Sgt. Crain appears to pat § 87(2)(b) down, but his specific actions are unclear. At 07:43, Sgt. Crain turns on a flashlight as he continues to frisk/search § 87(2)(b) (**Board Review 05 and Board Review 06**).



2018-04-17_13-31-28.mp4

Sgt. Crain stated that he searched § 87(2)(b) incident to his arrest. Sgt. Crain did not and did not see any officer, unzip, open, or pull § 87(2)(b)'s pants down or expose § 87(2)(b)'s underwear. § 87(2)(b) wore pants below his buttocks and his underwear was exposed because of this. § 87(2)(b) was not strip-searched, and he did not authorize any officer to strip-search him (**Board Review 09**).

PO Brennan also stated that Sgt. Crain searched § 87(2)(b). PO Brennan did not and did not see any officer pull § 87(2)(b)'s pants down, unzip his pants or strip search him. § 87(2)(b) wore his pants low, which exposed his underwear (**Board Review 11**).

PO Cabrera stated that PO Brennan searched § 87(2)(b). PO Cabrera did not and did not see any officer open § 87(2)(b)'s pants, expose his underwear, or strip-search him. § 87(2)(b)'s underwear was exposed because his pants fell down during the scuffle (**Board Review 13**).

There is no note of a strip-search in § 87(2)(b)'s arrest report or in the command log entry of his arrest (**Board Review 01 and Board Review 21**).

§ 87(2)(g)

Allegation K: Force- En route to the 44th Precinct stationhouse, Sergeant Christopher Crain used physical force against § 87(2)(b)

§ 87(2)(b) stated that he was then placed in the unmarked car. § 87(2)(b) stated that PO Brennan sat next to him in the rear of the unmarked car, but the investigation determined that Sgt. Crain sat next to § 87(2)(b). § 87(2)(b) was in a seated position, but he had trouble breathing due to a surgery in his lungs, so he moved around to accommodate himself into a more comfortable

position. Sgt. Crain slapped and grabbed § 87(2)(b)'s left bicep, and squeezed it during the entire ride to the stationhouse. § 87(2)(b) asked, "Can you get off of me? I'm not going anywhere." Sgt. Crain responded, "Well, you're moving around." § 87(2)(b) said, "Well, I'm uncomfortable and I can't breathe." Sgt. Crain did not say or do anything in response (**Board Review 07**).

The video evidence shows the officers escort § 87(2)(b) to the unmarked car. PO Cabrera approaches and enters the driver side of the unmarked car. Sgt. Crain goes around the car to the driver side, opens the rear door, and enters the unmarked car. The passenger side of the unmarked car is obstructed by a parked car and branches from a tree. The unmarked car drives away (**Board Review 05** and **Board Review 06**).



2018-04-17_13-31-28 2.mp4

Sgt. Crain stated that he sat in the rear of the unmarked car, next to § 87(2)(b) was in a seated position. There was no conversation between the officers and § 87(2)(b) en route to the stationhouse. § 87(2)(b) did not say that he had difficulty breathing. Sgt. Crain did not and did not see any officer slap or squeeze § 87(2)(b)'s arm (**Board Review 09**).

PO Brennan also stated that Sgt. Crain sat next to § 87(2)(b) and that § 87(2)(b) was in a seated position. PO Brennan initially stated that he did not recall § 87(2)(b) making any statements to the officers en route to the stationhouse. However, he later stated that § 87(2)(b) appeared agitated and unhappy because he made similar statements to the ones he stated while being searched. § 87(2)(b) did not say that he had difficulty breathing. PO Brennan did not and did not see any officer slap or squeeze § 87(2)(b)'s arm (**Board Review 11**).

PO Cabrera also stated that Sgt. Crain sat next to § 87(2)(b) and that § 87(2)(b) was in a seated position. There was no conversation or argument between the officers and § 87(2)(b) en route to the stationhouse. § 87(2)(b) did not say that he had difficulty breathing. PO Cabrera did not and did not see any officer slap or squeeze § 87(2)(b)'s arm (**Board Review 13**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

- PO Luke Brennan has been a member-of-service for three years and has been a subject in two CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Christopher Crain has been a member-of-service for 14 years and has been a subject in and 27 allegations, of which 2 were substantiated:
 - Case no. 201605621 involved a substantiated allegation of physical force against Sgt. Crain. The Board recommended charges and the case is currently assigned to the CCRB's Administrative Prosecution Unit.
 - Case no. 201706153 involved a substantiated allegation of discourtesy (word), The CCRB recommended Command Discipline B and the NYPD has not yet imposed discipline.
 - § 87(2)(g)
- PO Robert Cabrera has been a member-of-service for two years and has been a subject in two CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim on § 87(2)(b), claiming harassment, assault, sexual touching and harassment, false arrest and charges, and property damage. He did not list a specified amount as redress (**Board Review 18**).
- § 87(2)(b), § 87(2)(c)

Squad No.: 12

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
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Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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